

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

Charles Hinchey,
Petitioner

v

Office of Financial and Insurance Regulation,
Respondent

Case No. 11-839-L
Docket No. 2011-1351

Issued and entered
this 12th day of April 2012
by Randall S. Gregg
Deputy Commissioner

FINAL DECISION

I. BACKGROUND

This case concerns the application of Charles Hinchey (Petitioner) for a nonresident insurance producer license. On his license application, Petitioner disclosed that in 1988 his Florida insurance license had been revoked. Petitioner's application was denied based on that action.

Petitioner challenged the license denial. A hearing was scheduled for November 21, 2011. The Petitioner failed to appear for the hearing. The hearing proceeded in Petitioner's absence. The administrative law judge issued a Proposal for Decision recommending that the license denial be upheld.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Section 1239(1)(b) of the Michigan Insurance Code (Code), MCL 500. 1239(1)(b), provides:

(1) In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

* * *

(b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

The Commissioner finds that the Petitioner violated an insurance law of the state of Florida as evidenced by the 1988 revocation order. This fact requires that his Michigan license application be denied. The findings and recommendation in the Proposal for Decision are adopted.

III. ORDER

The refusal to issue an insurance producer license to Charles Hinchey is upheld.

R. Kevin Clinton
Commissioner

For the Commissioner:

A handwritten signature in dark ink, appearing to read 'R. S. Gregg', is written over a horizontal line.

Randall S. Gregg
Deputy Commissioner

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

RECEIVED

In the matter of

Docket No. 2011-1351

Charles Edward Hinchey,
Applicant

Agency No. 11-839-L

v
Office of Financial and
Insurance Regulation,
Respondent

Agency: Office of Financial &
Insurance Regulation

Case Type: Intent to Deny
Refusal to License

Issued and entered
this 8th day of February, 2012
by Renee A. Ozburn
Administrative Law Judge

**PROPOSAL FOR DECISION GRANTING SUMMARY JUDGMENT
AND ORDER CANCELLING HEARING**

PROCEDURAL HISTORY

On September 29, 2011, the Office of Financial and Insurance Regulation (OFIR/Respondent) issued an Order Referring Applicant's Petitioner for Contested Case Hearing to Appeal Agency Denial of Application for Insurance Producer License and Order to Respond in the matter of the application of Charles Edward Hinchey (Petitioner). OFIR filed a Response to Petition for Contested Case Hearing and a Motion for Summary Judgment dated September 28, 2011.

On October 4, 2011, a Notice of Hearing was issued scheduling a hearing for November 21, 2011. By Order dated October 18, 2011, the undersigned Administrative Law Judge converted the November 21, 2011 hearing to a telephone prehearing. The Notice of Hearing informs parties that a failure to appear at a hearing as scheduled, may result in a default judgment or decision against the non-appearing

party pursuant to the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*

Mr. Hinchey did not appear for the November 21, 2011 prehearing. Attorney Daniel Feinberg appeared on behalf of OFIR. The prehearing proceeded in Mr. Hinchey's absence.

An Order Following Telephone Prehearing was issued on December 1, 2011. This Order directed Petitioner Hinchey to file a written response to Respondent OFIR's Motion for Summary Judgment no later than Friday, January 6, 2012. The Petitioner failed to submit a response to OFIR's Motion. Further, Petitioner has failed to communicate in any manner indicating intent to participate in the opportunity for a hearing.

OFIR's Motion for Summary Judgment asserts that Petitioner submitted an application for a nonresident insurance producer license and answered 'yes' to the question: "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?". Further, the Motion asserts that, pursuant to an OFIR investigation, past administrative actions in Florida resulted in revocation of Petitioner's license to engage in the business of insurance in that state. OFIR asserts there are no further genuine issues of material fact.

The failure of Petitioner to contest OFIR's factual assertions, by appearing for hearing or by written response to OFIR's Motion for Summary Judgment, constitute good cause to refer this matter to the Commissioner for Final Decision.

FINDINGS OF FACT

1. Petitioner's insurance license in another state was revoked.

CONCLUSIONS OF LAW

The commissioner may refuse to license pursuant to Code Section 1239 which, in pertinent part, provides:

...the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

(b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

(i) Having an insurance producer license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory.

PROPOSED DECISION

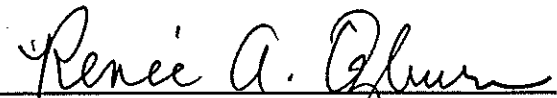
Pursuant to the above Findings of Fact and Conclusions of Law, the undersigned Administrative Law Judge proposes that the Commissioner grant Respondent's Motion for Summary Judgment affirming OFIR's Denial of Application for Insurance Producer License.

EXCEPTIONS

The parties may file Exceptions to this Proposal for Decision within 20 days after it is issued. Exceptions should be addressed to the Office of Financial and Insurance Regulation, 611 W. Ottawa Street, 3rd Floor, P.O. Box 30220, Lansing, Michigan 48909; Attention: Dawn Kobus.

ORDER CANCELLING HEARING

Further, it is **ORDERED** that the hearing scheduled for **Monday, February 13, 2012 at 9:00 a.m.** at the Michigan Administrative Hearing System, Ottawa State Office Building, 2nd Floor, 611 West Ottawa Street, Lansing, Michigan, is **Cancelled**.


Renee A. Ozburn
Administrative Law Judge